

IC 27-9-4

Chapter 4. Interstate Relations

IC 27-9-4-1

Conservators for alien or foreign insurers; grounds for appointment; procedure; order; termination

Sec. 1. (a) If a domiciliary liquidator has not been appointed, the commissioner may apply to the Marion County circuit court by verified petition for an order directing him to act as conservator to conserve the property of an alien insurer not domiciled in Indiana or a foreign insurer on any one (1) or more of the following grounds:

- (1) Any of the grounds stated in IC 27-9-3-1.
- (2) That any part of its property has been sequestered by official action in any other state.
- (3) That enough of its property has been sequestered in a foreign country to give reasonable cause to fear that the insurer is or may become insolvent.
- (4) That its certificate of authority to do business in Indiana has been revoked or that none was ever issued.
- (5) That there are residents of Indiana with outstanding claims or outstanding policies.

(b) When an order is sought under subsection (a), the Marion County circuit court shall cause the insurer to be given a notice and a time within which to respond to the request as is reasonable under the circumstances.

(c) The Marion County circuit court may issue the order in whatever terms the court considers appropriate. The filing or recording of the order with the clerk of the Marion County circuit court or the recorder of deeds of the county in which the principal business of the company is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds would have imparted.

(d) The conservator may at any time petition for and the Marion County circuit court may grant an order under section 2 of this chapter to liquidate assets of a foreign or alien insurer under conservation, or, if appropriate, for an order under section 4 of this chapter to be appointed ancillary receiver.

(e) The conservator may at any time petition the Marion County circuit court for an order terminating conservation of an insurer. If the court finds that the conservation is no longer necessary, the court shall order the insurer be restored to possession of its property and the control of its business. The court may also make such finding and issue such order at any time upon motion of any interested party, but if that motion is denied all costs shall be assessed against such party.
As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-2

Liquidation of assets of foreign or alien insurer; grounds; procedure; order; domiciliary proceedings; federal court proceedings; payment of claims

Sec. 2. (a) If no domiciliary receiver has been appointed, the commissioner may apply to the Marion County circuit court by verified petition for an order directing him to liquidate the assets found in Indiana of a foreign insurer or an alien insurer not domiciled in Indiana, on any of the grounds:

- (1) specified in IC 27-9-3-1 or IC 27-9-3-6; or
- (2) specified in section 1(a)(2) through 1(a)(4).

(b) When an order is sought under subsection (a), the Marion County circuit court shall cause the insurer to be given a notice and a time to respond to the request as is reasonable under the circumstances.

(c) If it appears to the court that the best interests of creditors, policyholders, and the public require, the Marion County circuit court may issue an order to liquidate in whatever terms the court considers appropriate. The filing or recording of the order with the clerk of the Marion County circuit court or the recorder of deeds of the county in which the principal business of the company is located or the county in which its principal office or place of business is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds would have imparted.

(d) If a domiciliary liquidator is appointed in a reciprocal state while a liquidation is proceeding under this section, the liquidator under this section shall act as ancillary receiver under section 4 of this chapter. If a domiciliary liquidator is appointed in a nonreciprocal state while a liquidation is proceeding under this section, the liquidator under this section may petition the Marion County circuit court for permission to act as ancillary receiver under section 4 of this chapter.

(e) On the same grounds as are specified in subsection (a), the commissioner may petition any appropriate federal district court to be appointed receiver to liquidate that part of the insurer's assets and business over which the court will exercise jurisdiction, or any lesser part of the assets that the commissioner considers desirable for the protection of the policyholders and creditors in Indiana.

(f) The district court may order the commissioner, when he has liquidated the assets of a foreign or alien insurer under this section, to pay claims of residents of Indiana against the insurer under such rules as to the liquidation of insurers under IC 27-9 as are otherwise compatible with this section.

As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-3

Insurers domiciled in reciprocal states; title to property in Indiana; filing of claims by Indiana residents

Sec. 3. (a) The domiciliary liquidator of an insurer domiciled in a reciprocal state shall, except as to special deposits and security on secured claims under section 4(c) of this chapter, be vested by operation of law with the title to all of the assets, property, contracts, and rights of action, insurance producers' balances, and all of the

books, accounts, and other records of the insurer located in Indiana. The date of vesting shall be the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the date of vesting shall be the date of entry of the order directing possession to be taken. The domiciliary liquidator shall have the immediate right to recover balances due from insurance producers and to obtain possession of the books, accounts, and other records of the insurer located in Indiana. The domiciliary liquidator also shall have the right to recover all other assets of the insurer located in Indiana, subject to section 4 of this chapter.

(b) If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the commissioner shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books, accounts, and other records of the insurer located in Indiana, at the same time that the domiciliary liquidator is vested with title in the domicile. The Indiana insurance commissioner may petition for a conservation or liquidation order under section 1 or 2 of this chapter, or for an ancillary receivership under section 4 of this chapter, or after approval by the Marion County circuit court may transfer title to the domiciliary liquidator, as the interests of justice and the equitable distribution of the assets require.

(c) Claimants residing in Indiana may file claims with the liquidator or ancillary receiver, if any, in Indiana or with the domiciliary liquidator, if the domiciliary law permits. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

As added by Acts 1979, P.L.255, SEC.1. Amended by P.L.178-2003, SEC.79.

IC 27-9-4-4

Ancillary state receivers

Sec. 4. (a) If a domiciliary liquidator has been appointed for an insurer not domiciled in Indiana, the commissioner may file a petition with the Marion County circuit court requesting appointment as ancillary receiver in Indiana if:

- (1) he finds that there are sufficient assets of the insurer located in Indiana to justify the appointment of an ancillary receiver; and
- (2) the protection of creditors or policyholders in Indiana requires it.

(b) The Marion County circuit court may issue an order appointing an ancillary receiver in whatever terms it considers appropriate. The filing or recording of the order with the recorder of deeds in Indiana imparts the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds.

(c) When a domiciliary liquidator has been appointed in a reciprocal state, then the ancillary receiver appointed in Indiana may,

whenever necessary, aid and assist the domiciliary liquidator in recovering assets of the insurer located in Indiana. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in Indiana, and shall pay the necessary expenses of the proceedings. He shall promptly transfer all remaining assets, books, accounts and records to the domiciliary liquidator. Subject to this section, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of assets as a liquidator of an insurer domiciled in Indiana.

(d) When a domiciliary liquidator has been appointed in Indiana, ancillary receivers appointed in reciprocal states shall have, as to assets and books, accounts, and other records in their respective states, corresponding rights, duties and powers to those provided in subsection (c) for ancillary receivers appointed in Indiana.

As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-5

Summary proceedings at request of officials of domiciliary states

Sec. 5. The commissioner in his sole discretion may institute proceedings under IC 27-9-2 at the request of the commissioner or other appropriate insurance official of the domiciliary state of any foreign or alien insurer having property located in Indiana.

As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-6

Claims by residents of other states

Sec. 6. (a) In a liquidation proceeding begun in Indiana against an insurer domiciled in Indiana, claimants residing in foreign countries or in states not reciprocal states must file claims in Indiana, and claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary liquidator. Claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

(b) Claims belonging to claimants residing in reciprocal states may be proved either in the liquidation proceeding in Indiana as provided in IC 27-9, or in ancillary proceedings, if any, in the reciprocal states. If notice of the claims and opportunity to appear and be heard is afforded the domiciliary liquidator of Indiana as provided in section 7(b) of this chapter with respect to ancillary proceedings, the final allowance of claims by the courts in ancillary proceedings in reciprocal states shall be conclusive as to amount and as to priority against special deposits or other security located in ancillary states, but shall not be conclusive with respect to priorities against general assets under IC 27-9-3-40.

As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-7

Claims by residents in proceeding in other states or in ancillary proceedings in Indiana

Sec. 7. (a) In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside within Indiana may file claims either with the ancillary receiver, if any, in Indiana, or with the domiciliary liquidator. Claims must be filed on or before the last dates fixed for the filing of claims in the domiciliary liquidation proceeding.

(b) Claims belonging to claimants residing in Indiana may be proved either in the domiciliary state under the law of that state, or in ancillary proceedings, if any, in Indiana. If a claimant elects to prove his claim in Indiana, he shall file his claim with the liquidator in the manner provided in IC 27-9-3-33 and IC 27-9-3-34. The ancillary receiver shall make his recommendation to the court as under IC 27-9-3-41. He shall also arrange a date for hearing if necessary under IC 27-9-3-37 and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service at least forty (40) days prior to the date set for hearing. If the domiciliary liquidator, within thirty (30) days after the giving of such notice, gives notice in writing to the ancillary receiver and to the claimant, either by certified mail or by personal service, of his intention to contest the claim, he may appear or be represented in any proceeding in Indiana involving the adjudication of the claim.

(c) The final allowance of the claim by the courts of Indiana shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in Indiana.

As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-8

Attachment, garnishment, or levy of execution

Sec. 8. During the pendency in this or any other state of a liquidation proceeding, whether called by that name or not, no action or proceeding in the nature of an attachment, garnishment, or levy of execution shall be commenced or maintained in Indiana against the delinquent insurer or its assets.

As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-9

Proceedings involving reciprocal states, orders of distribution, and priority of claims; special deposit claims; secured claims

Sec. 9. (a) In a liquidation proceeding in Indiana involving one (1) or more reciprocal states, the order of distribution of the domiciliary state shall control as to all claims of residents of this and reciprocal states. All claims of residents of reciprocal states shall be given equal priority of payment from general assets regardless of where those assets are located.

(b) The owners of special deposit claims against an insurer for which a liquidator is appointed in this or any other state shall be given priority against the special deposits in accordance with the statutes governing the creation and maintenance of the deposits. If

there is a deficiency in any deposit, so that the claims secured by it are not fully discharged from it, the claimants may share in the general assets, but the sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(c) The owner of a secured claim against an insurer for which a liquidator has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security in accordance with IC 27-9-3-39, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors.

As added by Acts 1979, P.L.255, SEC.1.

IC 27-9-4-10

Failure by ancillary receiver to transfer assets

Sec. 10. If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in Indiana any assets within his control other than special deposits, diminished only by the expenses of the ancillary receivership, if any, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under IC 27-9-3-40(7).

As added by Acts 1979, P.L.255, SEC.1.